

AMENDED IN SENATE APRIL 25, 2005

AMENDED IN SENATE APRIL 20, 2005

AMENDED IN SENATE APRIL 18, 2005

AMENDED IN SENATE APRIL 7, 2005

SENATE BILL

No. 430

Introduced by Senator Runner

February 17, 2005

An act to amend Sections 1240, 1241.5, 42127.8, 47604.4, and 47605 the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 430, as amended, Runner. Charter schools.

~~(1) Under existing law, the county superintendent of schools is responsible for the fiscal oversight of each school district in his or her county, with certain requirements.~~

~~This bill would extend those responsibilities to charter schools, thereby creating a state-mandated local program.~~

~~(2)–~~

~~(1)~~ Existing law establishes the County Office Fiscal Crisis and Management Assistance Team to provide, among other things, fiscal management assistance at the request of any school district or county office of education.

This bill would permit a county superintendent of schools to request the County Office Fiscal Crisis and Management Assistance Team to review the fiscal or administrative condition of a school district or charter school under his or her jurisdiction. The bill would, in addition, permit a charter school to request specified assistance from the County Office Fiscal Crisis and Management Assistance Team.

~~(3)–~~

(2) Existing law prohibits a governing board from denying a petition to establish a charter school, unless it makes findings that the petition lacks specified elements.

The bill would, in addition, prohibit a governing board from denying a petition unless it makes findings that the petition lacks an assurance of compliance with either open meetings provisions or provisions governing the meetings of public benefit corporations contained in existing law, with certain exceptions, or that the petition lacks an assurance of compliance with provisions of existing law that prohibit employees from being financially interested in any contract made by them in their official capacity.

~~(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes-no~~. State-mandated local program: ~~yes-no~~.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 1240 of the Education Code is amended~~
2 ~~to read:~~
3 ~~1240. The county superintendent of schools shall do all of the~~
4 ~~following:~~
5 ~~(a) Superintend the schools of his or her county.~~
6 ~~(b) Maintain responsibility for the fiscal oversight of each~~
7 ~~school district and charter school in his or her county pursuant to~~
8 ~~the authority granted by this code.~~
9 ~~(c) (1) Visit and examine each school in his or her county at~~
10 ~~reasonable intervals to observe its operation and to learn of its~~
11 ~~problems. He or she may annually present a report of the state of~~
12 ~~the schools in his or her county, and of his or her office,~~
13 ~~including, but not limited to, his or her observations while~~
14 ~~visiting the schools, to the board of education and the board of~~
15 ~~supervisors of his or her county.~~

~~(2) (A) To the extent that funds are appropriated for purposes of this paragraph, the county superintendent, or his or her designee, shall annually present a report to the governing board of each school district under his or her jurisdiction, the county board of education of his or her county, and the board of supervisors of his or her county describing the state of the schools in the county or of his or her office that are ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index, as defined in subdivision (b) of Section 17592.70, and shall include, among other things, his or her observations while visiting the schools.~~

~~(B) The county superintendent of the Counties of Alpine, Amador, Del Norte, Mariposa, Plumas, Sierra, and the City and County of San Francisco shall contract with another county office of education or an independent auditor to conduct the required visits and make all reports required by this paragraph.~~

~~(C) The results of the visit shall be reported to the governing board of the school district on a quarterly basis at a regularly scheduled meeting held in accordance with public notification requirements.~~

~~(D) The visits made pursuant to this paragraph shall be conducted at least annually and shall meet the following criteria:~~

~~(i) Not disrupt the operation of the school.~~

~~(ii) Be performed by individuals who meet the requirements of Section 45125.1.~~

~~(iii) Consist of not less than 25 percent unannounced visits in each county. During unannounced visits in each county, the county superintendent shall not demand access to documents or specific school personnel. Unannounced visits shall only be used to observe the condition of school repair and maintenance and the sufficiency of instructional materials, as defined by Section 60119.~~

~~(E) The priority objective of the visits made pursuant to this paragraph shall be to determine the status of all of the following circumstances:~~

~~(i) Sufficient textbooks as defined in Section 60119 and as specified in subdivision (i).~~

~~(ii) The condition of a facility that poses an emergency or urgent threat to the health or safety of pupils or staff as defined in~~

1 district policy, or as defined by paragraph (1) of subdivision (c)
2 of Section 17592.72.

3 (iii) The accuracy of data reported on the school accountability
4 report card with respect to the availability of sufficient textbooks
5 and instructional materials as defined by Section 60119 and the
6 safety, cleanliness, and adequacy of school facilities, including
7 good repair as required by Sections 17014, 17032.5, 17070.75,
8 and 17089.

9 (d) Distribute all laws, reports, circulars, instructions, and
10 blanks that he or she may receive for the use of the school
11 officers.

12 (e) Annually present a report to the governing board of the
13 school district and the Superintendent regarding the fiscal
14 solvency of any school district with a disapproved budget,
15 qualified interim certification, or a negative interim certification,
16 or that is determined at any time to be in a position of fiscal
17 uncertainty pursuant to Section 42127.6.

18 (f) Keep in his or her office the reports of the Superintendent.

19 (g) Keep a record of his or her official acts, and of all the
20 proceedings of the county board of education, including a record
21 of the standing, in each study, of all applicants for certificates
22 who have been examined, which shall be open to the inspection
23 of any applicant or his or her authorized agent.

24 (h) Enforce the course of study.

25 (i) (1) Enforce the use of state textbooks and instructional
26 materials and of high school textbooks and instructional
27 materials regularly adopted by the proper authority.

28 (2) For purposes of this subdivision, sufficient textbooks or
29 instructional materials has the same meaning as in subdivision (c)
30 of Section 60119.

31 (3) If a school is ranked in any of deciles 1 to 3, inclusive, of
32 the 2003 base Academic Performance Index, as defined in
33 subdivision (b) of Section 17592.70, and is not currently under
34 review through a state or federal intervention program, the
35 county superintendent shall specifically review that school at
36 least annually as a priority school. A review conducted for
37 purposes of this paragraph shall be conducted within the first
38 four weeks of the school year. For the 2004-05 fiscal year only,
39 the county superintendent shall make a diligent effort to conduct

1 a visit to each school pursuant to this paragraph within 120 days
2 of receipt of funds for this purpose.

3 (4) ~~If the county superintendent determines that a school does~~
4 ~~not have sufficient textbooks or instructional materials in~~
5 ~~accordance with subparagraph (A) of paragraph (1) of~~
6 ~~subdivision (a) of Section 60119 and as defined by subdivision~~
7 ~~(c) of Section 60119, the county superintendent shall do all of the~~
8 ~~following:~~

9 (A) ~~Prepare a report that specifically identifies and documents~~
10 ~~the areas or instances of noncompliance.~~

11 (B) ~~Provide within five business days of the review, a copy of~~
12 ~~the report to the school district, as provided in subdivision (c),~~
13 ~~and forward the report to the Superintendent.~~

14 (C) ~~Provide the school district with the opportunity to remedy~~
15 ~~the deficiency. The county superintendent shall ensure~~
16 ~~remediation of the deficiency no later than the second month of~~
17 ~~the school term.~~

18 (D) ~~If the deficiency is not remedied as required pursuant to~~
19 ~~subparagraph (C), the county superintendent shall request the~~
20 ~~department, with approval by the State Board of Education, to~~
21 ~~purchase the textbooks or instructional materials necessary to~~
22 ~~comply with the sufficiency requirement of this subdivision. If~~
23 ~~the state board approves a recommendation from the department~~
24 ~~to purchase textbooks or instructional materials for the school~~
25 ~~district, the board shall issue a public statement at a regularly~~
26 ~~scheduled meeting indicating that the district superintendent and~~
27 ~~the governing board of the school district failed to provide pupils~~
28 ~~with sufficient textbooks or instructional materials as required by~~
29 ~~this subdivision. Before purchasing the textbooks or instructional~~
30 ~~materials, the department shall consult with the district to~~
31 ~~determine which textbooks or instructional materials to purchase.~~
32 ~~All purchases of textbooks or instructional materials shall~~
33 ~~comply with Chapter 3.25 (commencing with Section 60420) of~~
34 ~~Part 33. The amount of funds necessary to the purchase the~~
35 ~~textbooks and materials is a loan to the school district receiving~~
36 ~~the textbooks or instructional materials. Unless the school district~~
37 ~~repays the amount owed based upon an agreed-upon repayment~~
38 ~~schedule with the Superintendent of Public Instruction, the~~
39 ~~Superintendent of Public Instruction shall notify the Controller~~
40 ~~and the Controller shall deduct an amount equal to the total~~

1 amount used to purchase the textbooks and materials, from the
2 next principal apportionment of the district or from another
3 apportionment of state funds.

4 (j) ~~Preserve carefully all reports of school officers and~~
5 ~~teachers.~~

6 (k) ~~Deliver to his or her successor, at the close of his or her~~
7 ~~official term, all records, books, documents, and papers~~
8 ~~belonging to the office, taking a receipt for them, which shall be~~
9 ~~filed with the department.~~

10 (l) ~~(1) Submit two reports during the fiscal year to the county~~
11 ~~board of education in accordance with the following:~~

12 (A) ~~The first report shall cover the financial and budgetary~~
13 ~~status of the county office of education for the period ending~~
14 ~~October 31. The second report shall cover the period ending~~
15 ~~January 31. Both reports shall be reviewed by the county board~~
16 ~~of education and approved by the county superintendent of~~
17 ~~schools no later than 45 days after the close of the period being~~
18 ~~reported.~~

19 (B) ~~As part of each report, the county superintendent shall~~
20 ~~certify in writing whether or not the county office of education is~~
21 ~~able to meet its financial obligations for the remainder of the~~
22 ~~fiscal year and, based on current forecasts, for two subsequent~~
23 ~~fiscal years. The certifications shall be classified as positive,~~
24 ~~qualified, or negative, pursuant to standards prescribed by the~~
25 ~~Superintendent, for the purposes of determining subsequent state~~
26 ~~agency actions pursuant to Section 1240.1. For purposes of this~~
27 ~~subdivision, a negative certification shall be assigned to any~~
28 ~~county office of education that, based upon current projections,~~
29 ~~will be unable to meet its financial obligations for the remainder~~
30 ~~of the fiscal year or for the subsequent fiscal year. A qualified~~
31 ~~certification shall be assigned to any county office of education~~
32 ~~that may not meet its financial obligations for the current fiscal~~
33 ~~year or two subsequent fiscal years. A positive certification shall~~
34 ~~be assigned to any county office of education that will meet its~~
35 ~~financial obligations for the current fiscal year and subsequent~~
36 ~~two fiscal years. In accordance with those standards, the~~
37 ~~Superintendent may reclassify any certification. If a county office~~
38 ~~of education receives a negative certification, the Superintendent,~~
39 ~~or his or her designee, may exercise the authority set forth in~~
40 ~~subdivision (c) of Section 1630. Copies of each certification, and~~

1 of the report containing that certification, shall be sent to the
2 Superintendent at the time the certification is submitted to the
3 county board of education. Copies of each qualified or negative
4 certification and the report containing that certification shall be
5 sent to the Controller at the time the certification is submitted to
6 the county board of education.

7 (2) All reports and certifications required under this
8 subdivision shall be in a format or on forms prescribed by the
9 Superintendent, and shall be based on standards and criteria for
10 fiscal stability adopted by the State Board of Education pursuant
11 to Section 33127. The reports and supporting data shall be made
12 available by the county superintendent of schools to any
13 interested party upon request.

14 (3) This subdivision does not preclude the submission of
15 additional budgetary or financial reports by the county
16 superintendent to the county board of education or to the
17 Superintendent.

18 (4) The county superintendent of schools is not responsible for
19 the fiscal oversight of the community colleges in the county,
20 however, he or she may perform financial services on behalf of
21 those community colleges.

22 (m) If requested, act as agent for the purchase of supplies for
23 the city and high school districts of his or her county.

24 (n) For purposes of Section 44421.5, report to the Commission
25 on Teacher Credentialing the identity of any certificated person
26 who knowingly and willingly reports false fiscal expenditure data
27 relative to the conduct of any educational program. This
28 requirement applies only if, in the course of his or her normal
29 duties, the county superintendent of schools discovers
30 information that gives him or her reasonable cause to believe that
31 false fiscal expenditure data relative to the conduct of any
32 educational program has been reported.

33 **SEC. 2.**

34 *SECTION 1.* Section 1241.5 of the Education Code is
35 amended to read:

36 1241.5. (a) At any time during a fiscal year, the county
37 superintendent may audit the expenditures and internal controls
38 of school districts he or she determines to be fiscally accountable,
39 and shall conduct this audit in a timely and efficient manner. The
40 county superintendent shall report the findings and

1 recommendation to the governing board of the district within 45
2 days of completing the audit. The governing board shall, no later
3 than 15 days after receipt of the report, notify the county
4 superintendent of schools of its proposed actions on the county
5 superintendent's recommendation. Upon review of the governing
6 board report, the county superintendent, at his or her discretion,
7 may revoke the authority for the district to be fiscally
8 accountable pursuant to Section 42650.

9 (b) At any time during a fiscal year, the county superintendent
10 may review or audit the expenditures and internal controls of any
11 school district in his or her county if he or she has reason to
12 believe that fraud, misappropriation of funds, or other illegal
13 fiscal practices have occurred that merit examination. The review
14 or audit conducted by the county superintendent shall be focused
15 on the alleged fraud, misappropriation of funds, or other illegal
16 fiscal practices and shall be conducted in a timely and efficient
17 manner. The county superintendent shall report the findings and
18 recommendations to the governing board of the school district at
19 a regularly scheduled school district board meeting within 45
20 days of completing the review, audit, or examination. The
21 governing board of the school district shall, no later than 15
22 calendar days after receipt of the report, notify the county
23 superintendent of its proposed actions on the county
24 superintendent's recommendations. Upon review of the school
25 district governing board report, the county superintendent, at his
26 or her discretion, and consistent with law, may disapprove an
27 order for payment of funds consistent with Section 42638.

28 (c) At any time during a fiscal year, the county superintendent
29 may review or audit the expenditures and internal controls of any
30 charter school in his or her county if he or she has reason to
31 believe that fraud, misappropriation of funds, or other illegal
32 fiscal practices have occurred that merit examination. The review
33 or audit conducted by the county superintendent shall be focused
34 on the alleged fraud, misappropriation of funds, or other illegal
35 fiscal practices and shall be conducted in a timely and efficient
36 manner. The county superintendent shall report the findings and
37 recommendations to the governing board of the charter school at
38 a regularly scheduled meeting, and provide a copy of the
39 information to the chartering authority of the charter school,
40 within 45 days of completing the review, audit, or examination.

1 The governing board of the charter school shall, no later than 15
2 calendar days after receipt of the report, notify the county
3 superintendent and its chartering authority of its proposed
4 response to the recommendations.

5 ~~SEC. 3.~~

6 *SEC. 2.* Section 42127.8 of the Education Code is amended to
7 read:

8 42127.8. (a) The governing board provided for in subdivision
9 (b) shall establish a unit to be known as the County Office Fiscal
10 Crisis and Management Assistance Team. The team shall consist
11 of persons having extensive experience in school district
12 budgeting, accounting, data processing, telecommunications, risk
13 management, food services, pupil transportation, purchasing and
14 warehousing, facilities maintenance and operation, and personnel
15 administration, organization, and staffing. The Superintendent
16 may appoint one employee of the department to serve on the unit.
17 The unit shall be operated under the immediate direction of an
18 appropriate county office of education selected jointly, in
19 response to an application process, by the Superintendent and the
20 Secretary for Education.

21 (b) The unit established under subdivision (a) shall be selected
22 and governed by a 23-member governing board consisting of one
23 representative chosen by the California County Superintendents
24 Educational Services Association from each of the 11 county
25 service regions designated by the association, 11 superintendents
26 of school districts chosen by the Association of California School
27 Administrators from each of the 11 county service regions, and
28 one representative from the State Department of Education
29 chosen by the Superintendent of Public Instruction. The
30 governing board of the County Office Fiscal Crisis and
31 Management Assistance Team shall select a county
32 superintendent of schools to chair the unit.

33 (c) (1) The Superintendent may request the unit to provide the
34 assistance described in subdivision (b) of Section 1624, Section
35 1630, Section 33132, subdivision (b) of Section 42127.3,
36 subdivision (c) of Section 42127.6, Section 42127.9, and
37 subdivision (a) of Section 42238.2, and to review the fiscal and
38 administrative condition of any county office of education,
39 school district, or charter school.

1 (2) A county superintendent of schools may request the unit to
2 review the fiscal or administrative condition of a school district
3 or charter school under his or her jurisdiction.

4 (d) In addition to the functions described in subdivision (c),
5 the unit shall do all of the following:

6 (1) Provide fiscal management assistance, at the request of any
7 school district, charter school, or county office of education.
8 Each school district, charter school, or county office of education
9 receiving that assistance shall be required to pay the onsite
10 personnel costs and travel costs incurred by the unit for that
11 purpose, pursuant to rates determined by the governing board
12 established under subdivision (b). The governing board annually
13 shall distribute rate information to each school district, charter
14 school, and county office of education.

15 (2) Facilitate training for members of the governing board of
16 the school district, district and county superintendents, chief
17 financial officers within the district, and schoolsite personnel
18 whose primary responsibility is to address fiscal issues. Training
19 services shall emphasize efforts to improve fiscal accountability
20 and expand the fiscal competency of local agencies. The unit
21 shall use state professional associations, private organizations,
22 and public agencies to provide guidance, support, and the
23 delivery of any training services.

24 (3) Facilitate fiscal management training through the 10
25 county service regions to county office of education staff to
26 ensure that they develop the technical skills necessary to perform
27 their fiduciary duty. The governing board established pursuant to
28 subdivision (b) shall determine the extent of the training that is
29 necessary to comply with this paragraph.

30 (4) Produce a training calendar, to be disseminated
31 semiannually to each county service region, that publicizes all of
32 the fiscal training services that are being offered at the local,
33 regional, and state levels.

34 (e) The governing board shall reserve not less than 25 percent,
35 nor more than 50 percent, of its revenues each year for
36 expenditure for the costs of contracts and professional services as
37 management assistance to school districts, charter schools, or
38 county superintendents of schools in which the board determines
39 that a fiscal emergency exists.

(f) The governing board established under subdivision (b) may levy an annual assessment against each county office of education that elects to participate under this section in an amount not to exceed twenty cents (\$0.20) per unit of total average daily attendance for all school districts within the county. The revenues collected pursuant to that assessment shall be applied to the expenses of the unit.

(g) The governing board established under subdivision (b) may pay to the department, from any available funds, a reasonable amount to reimburse the department for actual administrative expenses incurred in the review of the budgets and fiscal conditions of school districts, charter schools, and county superintendents of schools.

(h) When employed as a fiscal adviser by the department pursuant to Section 1630, employees of the unit established pursuant to subdivision (a) shall be considered employees of the department for purposes of errors and omissions liability insurance.

(i) (1) The unit shall request and review applications to establish regional teams of education finance experts throughout the state.

(2) To the extent that funding is provided for purposes of this subdivision in the annual Budget Act or through another appropriation, regional teams selected by the Superintendent, in consultation with the unit, shall provide training and technical expertise to school districts, charter schools, and county offices of education facing fiscal difficulties.

(3) The regional teams shall follow the standards and guidelines of and remain under the general supervision of the governing board established under subdivision (b).

(4) It is the intent of the Legislature that, to the extent possible, the regional teams be distributed geographically throughout the various regions of the state in order to provide timely, cost-effective expertise to school districts, charter schools, and county offices of education throughout the state.

~~SEC. 4.~~

SEC. 3. Section 47604.4 of the Education Code is amended to read:

47604.4. (a) In addition to the authority granted by Sections 1241.5 and 47604.3, a county superintendent of schools may,

1 based upon written complaints by parents or other information
2 that justifies the investigation, monitor the operations of a charter
3 school located within that county and conduct an investigation
4 into the operations of that charter school. If a county
5 superintendent of schools monitors or investigates a charter
6 school pursuant to this section, the county office of education
7 shall not incur any liability beyond the cost of the investigation.

8 (b) A charter school shall notify the county superintendent of
9 schools of the county in which it is located of the location of the
10 charter school, including the location of each site, if applicable,
11 prior to commencing operations.

12 ~~SEC. 5.~~

13 *SEC. 4.* Section 47605 of the Education Code is amended to
14 read:

15 47605. (a) (1) Except as set forth in paragraph (2), a petition
16 for the establishment of a charter school within any school
17 district may be circulated by any one or more persons seeking to
18 establish the charter school. A petition for the establishment of a
19 charter school shall identify a single charter school that will
20 operate within the geographic boundaries of that school district.
21 A charter school may propose to operate at multiple sites within
22 the school district, as long as each location is identified in the
23 charter school petition. The petition may be submitted to the
24 governing board of the school district for review after either of
25 the following conditions are met:

26 (A) The petition has been signed by a number of parents or
27 guardians of pupils that is equivalent to at least one-half of the
28 number of pupils that the charter school estimates will enroll in
29 the school for its first year of operation.

30 (B) The petition has been signed by a number of teachers that
31 is equivalent to at least one-half of the number of teachers that
32 the charter school estimates will be employed at the school
33 during its first year of operation.

34 (2) In the case of a petition for the establishment of a charter
35 school through the conversion of an existing public school, that
36 would not be eligible for a loan pursuant to subdivision (b) of
37 Section 41365, the petition may be circulated by any one or more
38 persons seeking to establish the converted charter school. The
39 petition may be submitted to the governing board of the school
40 district for review after the petition has been signed by not less

1 than 50 percent of the permanent status teachers currently
2 employed at the public school to be converted.

3 (3) A petition shall include a prominent statement that a
4 signature on the petition means that the parent or guardian is
5 meaningfully interested in having his or her child, or ward, attend
6 the charter school, or in the case of a teacher's signature, means
7 that the teacher is meaningfully interested in teaching at the
8 charter school. The proposed charter shall be attached to the
9 petition.

10 (4) After receiving approval of its petition, a charter school
11 that proposes to establish operations at one or more additional
12 sites within the jurisdictional boundaries of the school district
13 shall request a material revision to its charter and shall notify the
14 governing board of the school district of those additional
15 locations. The governing board of the school district shall
16 consider whether to approve those additional locations at an
17 open, public meeting. If the additional locations are approved by
18 the governing board of the school districts, they shall be a
19 material revision to the charter school's charter.

20 (5) Notwithstanding subdivision (a), a charter school that is
21 unable to locate within the jurisdiction of the chartering school
22 district may establish one site outside the boundaries of the
23 school district, but within the county within which that school
24 district is located, if the school district where the charter school
25 proposes to operate is notified in advance of the charter petition
26 approval, the county superintendent of schools and the
27 Superintendent are notified of the location of the charter school
28 before it commences operations and either of the following
29 circumstances exist:

30 (A) The school has attempted to locate a single site or facility
31 to house the entire program but such a facility or site is
32 unavailable in the area in which the school chooses to locate.

33 (B) The site is needed for temporary use during a construction
34 or expansion project.

35 (6) Commencing January 1, 2003, a petition to establish a
36 charter school may not be approved to serve pupils in a grade
37 level that is not served by the school district of the governing
38 board considering the petition, unless the petition proposes to
39 serve pupils in all of the grade levels served by that school
40 district.

(b) No later than 30 days after receiving a petition, in accordance with subdivision (a), the governing board of the school district shall hold a public hearing on the provisions of the charter, at which time the governing board of the school district shall consider the level of support for the petition by teachers employed by the district, other employees of the district, and parents. Following review of the petition and the public hearing, the governing board of the school district shall either grant or deny the charter within 60 days of receipt of the petition, provided, however, that the date may be extended by an additional 30 days if both parties agree to the extension. In reviewing petitions for the establishment of charter schools pursuant to this section, the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged. A school district governing board shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice. The governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:

(1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.

(2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.

(3) The petition does not contain the number of signatures required by subdivision (a).

(4) The petition does not contain an affirmation of each of the conditions described in subdivision (d).

(5) The petition does not contain reasonably comprehensive descriptions of all of the following:

(A) (i) A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an “educated person” in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of

1 enabling pupils to become self-motivated, competent, and
2 lifelong learners.

3 (ii) If the proposed school will serve high school pupils, a
4 description of how the charter school will inform parents about
5 the transferability of courses to other public high schools and the
6 eligibility of courses to meet college entrance requirements.
7 Courses offered by the charter school that are accredited by the
8 Western Association of Schools and Colleges may be considered
9 transferable and courses approved by the University of California
10 or the California State University as creditable under the “A” to
11 “G” admissions criteria may be considered to meet college
12 entrance requirements.

13 (B) The measurable pupil outcomes identified for use by the
14 charter school. “Pupil outcomes,” for purposes of this part,
15 means the extent to which all pupils of the school demonstrate
16 that they have attained the skills, knowledge, and attitudes
17 specified as goals in the school’s educational program.

18 (C) The method by which pupil progress in meeting those
19 pupil outcomes is to be measured.

20 (D) The governance structure of the school, including, but not
21 limited to, the process to be followed by the school to ensure
22 parental involvement.

23 (E) The qualifications to be met by individuals to be employed
24 by the school.

25 (F) The procedures that the school will follow to ensure the
26 health and safety of pupils and staff. These procedures shall
27 include the requirement that each employee of the school furnish
28 the school with a criminal record summary as described in
29 Section 44237.

30 (G) The means by which the school will achieve a racial and
31 ethnic balance among its pupils that is reflective of the general
32 population residing within the territorial jurisdiction of the school
33 district to which the charter petition is submitted.

34 (H) Admission requirements, if applicable.

35 (I) The manner in which annual, independent, financial audits
36 shall be conducted, which shall employ generally accepted
37 accounting principles, and the manner in which audit exceptions
38 and deficiencies shall be resolved to the satisfaction of the
39 chartering authority.

1 (J) The procedures by which pupils can be suspended or
2 expelled.

3 (K) The manner by which staff members of the charter schools
4 will be covered by the State Teachers' Retirement System, the
5 Public Employees' Retirement System, or federal social security.

6 (L) The public school attendance alternatives for pupils
7 residing within the school district who choose not to attend
8 charter schools.

9 (M) A description of the rights of any employee of the school
10 district upon leaving the employment of the school district to
11 work in a charter school, and of any rights of return to the school
12 district after employment at a charter school.

13 (N) The procedures to be followed by the charter school and
14 the entity granting the charter to resolve disputes relating to
15 provisions of the charter.

16 (O) A declaration whether or not the charter school shall be
17 deemed the exclusive public school employer of the employees
18 of the charter school for the purposes of the Educational
19 Employment Relations Act (Chapter 10.7 (commencing with
20 Section 3540) of Division 4 of Title 1 of the Government Code).

21 (P) A description of the procedures to be used if the charter
22 school closes. The procedures shall ensure a final audit of the
23 school to determine the disposition of all assets and liabilities of
24 the charter school, including plans for disposing of any net assets
25 and for the maintenance and transfer of pupil records.

26 (Q) An assurance of compliance with either the Ralph M.
27 Brown Act (Chapter 9 (commencing with Section 54950) of
28 Division 2 of Title 5 of the Government Code) or Chapter 5
29 (commencing with Section 5510) of Part 2 of Division 2 of Title
30 1 of the Corporations Code. This subparagraph does not apply to
31 charter schools operated by entities governed by the
32 Bagley-Keene Open Meeting Act (Article 9 (commencing with
33 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
34 the Government Code).

35 (R) An assurance of compliance with Article 4 (commencing
36 with Section 1090) of Division 4 of Title 1 of the Government
37 Code.

38 (c) (1) Charter schools shall meet all statewide standards and
39 conduct the pupil assessments required pursuant to Section
40 60605 and any other statewide standards authorized in statute or

1 pupil assessments applicable to pupils in noncharter public
2 schools.

3 (2) Charter schools shall, on a regular basis, consult with their
4 parents and teachers regarding the school's educational
5 programs.

6 (d) (1) In addition to any other requirement imposed under
7 this part, a charter school shall be nonsectarian in its programs,
8 admission policies, employment practices, and all other
9 operations, shall not charge tuition, and shall not discriminate
10 against any pupil on the basis of ethnicity, national origin,
11 gender, or disability. Except as provided in paragraph (2),
12 admission to a charter school shall not be determined according
13 to the place of residence of the pupil, or of his or her parent or
14 guardian, within this state, except that any existing public school
15 converting partially or entirely to a charter school under this part
16 shall adopt and maintain a policy giving admission preference to
17 pupils who reside within the former attendance area of that
18 public school.

19 (2) (A) A charter school shall admit all pupils who wish to
20 attend the school.

21 (B) However, if the number of pupils who wish to attend the
22 charter school exceeds the school's capacity, attendance, except
23 for existing pupils of the charter school, shall be determined by a
24 public random drawing. Preference shall be extended to pupils
25 currently attending the charter school and pupils who reside in
26 the district except as provided for in Section 47614.5. Other
27 preferences may be permitted by the chartering authority on an
28 individual school basis and only if consistent with the law.

29 (C) In the event of a drawing, the chartering authority shall
30 make reasonable efforts to accommodate the growth of the
31 charter school and, in no event, shall take any action to impede
32 the charter school from expanding enrollment to meet pupil
33 demand.

34 (e) No governing board of a school district shall require any
35 employee of the school district to be employed in a charter
36 school.

37 (f) No governing board of a school district shall require any
38 pupil enrolled in the school district to attend a charter school.

39 (g) The governing board of a school district shall require that
40 the petitioner or petitioners provide information regarding the

1 proposed operation and potential effects of the school, including,
2 but not limited to, the facilities to be utilized by the school, the
3 manner in which administrative services of the school are to be
4 provided, and potential civil liability effects, if any, upon the
5 school and upon the school district. The description of the
6 facilities to be used by the charter school shall specify where the
7 school intends to locate. The petitioner or petitioners shall also be
8 required to provide financial statements that include a proposed
9 first-year operational budget, including startup costs, and
10 cashflow and financial projections for the first three years of
11 operation.

12 (h) In reviewing petitions for the establishment of charter
13 schools within the school district, the school district governing
14 board shall give preference to petitions that demonstrate the
15 capability to provide comprehensive learning experiences to
16 pupils identified by the petitioner or petitioners as academically
17 low achieving pursuant to the standards established by the State
18 Department of Education under Section 54032.

19 (i) Upon the approval of the petition by the governing board of
20 the school district, the petitioner or petitioners shall provide
21 written notice of that approval, including a copy of the petition,
22 to the applicable county superintendent of schools, the State
23 Department of Education, and the State Board of Education.

24 (j) (1) If the governing board of a school district denies a
25 petition, the petitioner may elect to submit the petition for the
26 establishment of a charter school to the county board of
27 education. The county board of education shall review the
28 petition pursuant to subdivision (b). If the petitioner elects to
29 submit a petition for establishment of a charter school to the
30 county board of education and the county board of education
31 denies the petition, the petitioner may file a petition for
32 establishment of a charter school with the State Board of
33 Education, and the state board may approve the petition, in
34 accordance with subdivision (b). Any charter school that receives
35 approval of its petition from a county board of education or from
36 the State Board of Education on appeal shall be subject to the
37 same requirements concerning geographic location that it would
38 otherwise be subject to if it receives approval from the entity to
39 whom it originally submits its petition. A charter petition that is
40 submitted to either a county board of education or to the State

1 Board of Education shall meet all otherwise applicable petition
2 requirements, including the identification of the proposed site or
3 sites where the charter school will operate.

4 (2) In assuming its role as a chartering agency, the State Board
5 of Education shall develop criteria to be used for the review and
6 approval of charter school petitions presented to the State Board
7 of Education. The criteria shall address all elements required for
8 charter approval, as identified in subdivision (b) of Section
9 47605 and shall define “reasonably comprehensive” as used in
10 paragraph (5) of subdivision (b) of Section 47605 in a way that is
11 consistent with the intent of the Charter Schools Act of 1992.
12 Upon satisfactory completion of the criteria, the State Board of
13 Education shall adopt the criteria on or before June 30, 2001.

14 (3) A charter school for which a charter is granted by either
15 the county board of education or the State Board of Education
16 based on an appeal pursuant to this subdivision shall qualify fully
17 as a charter school for all funding and other purposes of this part.

18 (4) If either the county board of education or the State Board
19 of Education fails to act on a petition within 120 days of receipt,
20 the decision of the governing board of the school district, to deny
21 a petition shall, thereafter, be subject to judicial review.

22 (5) The State Board of Education shall adopt regulations
23 implementing this subdivision.

24 (6) Upon the approval of the petition by the county board of
25 education, the petitioner or petitioners shall provide written
26 notice of that approval, including a copy of the petition to the
27 State Department of Education and the State Board of Education.

28 (k) (1) The State Board of Education may, by mutual
29 agreement, designate its supervisory and oversight
30 responsibilities for a charter school approved by the State Board
31 of Education to any local education agency in the county in
32 which the charter school is located or to the governing board of
33 the school district that first denied the petition.

34 (2) The designated local education agency shall have all
35 monitoring and supervising authority of a chartering agency,
36 including, but not limited to, powers and duties set forth in
37 Section 47607, except the power of revocation, which shall
38 remain with the State Board of Education.

39 (3) A charter school that has been granted its charter through
40 an appeal to the State Board of Education and elects to seek

1 renewal of its charter shall, prior to expiration of the charter,
2 submit its petition for renewal to the governing board of the
3 school district that initially denied the charter. If the governing
4 board of the school district denies the school's petition for
5 renewal, the school may petition the State Board of Education for
6 renewal of its charter.

7 (l) Teachers in charter schools shall be required to hold a
8 Commission on Teacher Credentialing certificate, permit, or
9 other document equivalent to that which a teacher in other public
10 schools would be required to hold. These documents shall be
11 maintained on file at the charter school and shall be subject to
12 periodic inspection by the chartering authority. It is the intent of
13 the Legislature that charter schools be given flexibility with
14 regard to noncore, noncollege preparatory courses.

15 (m) A charter school shall transmit a copy of its annual,
16 independent, financial audit report for the preceding fiscal year,
17 as described in subparagraph (I) of paragraph (5) of subdivision
18 (b), to its chartering entity, the Controller, the county
19 superintendent of schools of the county in which the charter
20 school is sited, unless the county board of education of the
21 county in which the charter school is sited is the chartering
22 entity, and the State Department of Education by December 15 of
23 each year. This subdivision shall not apply if the audit of the
24 charter school is encompassed in the audit of the chartering entity
25 pursuant to Section 41020.

26 ~~SEC. 6. If the Commission on State Mandates determines that~~
27 ~~this act contains costs mandated by the state, reimbursement to~~
28 ~~local agencies and school districts for those costs shall be made~~
29 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
30 ~~4 of Title 2 of the Government Code.~~